



A Publication of the
**DEPARTMENT OF REGULATION AND LICENSING
FOR AUCTIONEERS AND AUCTION COMPANIES**

Volume 6, No. 1

March, 2001

A Message From the Board Chair Richard Lust

As we begin a new year, we find that new issues and questions about “old” issues continue to confront the department and the board. Some of these issues will be addressed elsewhere in this newsletter; however, I would like to comment on a few of them.

First, in case you haven’t heard, I would like to inform you that Secretary Marlene Cummings announced that she would be retiring from state service on February 25, 2001. The Board would like to compliment Marlene on her having been the Secretary of the Department of Regulation and Licensing for over 14 years, longer by far, than any previous Secretary. We wish her well and hope that she will enjoy the Florida sunshine, especially on cold, snowy days like those we endured here in Wisconsin during December 2000.

On February 1, new rules became effective concerning the auction-related activities that may be performed by a person whose registration has been suspended or revoked by the Board. The Board is most anxious to have these rules in place, so that we will be able to

more clearly answer questions like those we received during the past year when the board issued a suspension and a revocation.

Many of you are members of the Wisconsin Auctioneers Association. Therefore, you are aware that the WAA has initiated an effort to reinstate mandatory continuing education. The board and the department will be addressing this request soon.

We have some rather comprehensive administrative rules concerning the sale of real estate at auction. Nevertheless, quite a few questions have been posed to me during the past few months by auctioneers and members of our auditing staff. Here are a few examples: Question #1 “May an auctioneer who is not licensed as a real estate agent contact individuals who were registered bidders at an auction and inform them that the highest bid was not accepted by the seller and that the property is still available?” Question #2 “In the situation, described above, would the auctioneer be entitled to his or her fee, even though the property was not sold at auction?” Question #3 “If a licensed real estate broker does not have a listing contract for sale of a property, may the broker assist a seller or auctioneer by completing the contractual forms after the auction has been conducted?” Question #4 “If a real estate

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broker had a listing on a property, and the property did not sell during the term of the listing; but the property is later sold to the highest bidder who also happened to have negotiated earlier with the real estate broker, is the auctioneer entitled to his or her commission?"

No doubt, the board will be reviewing these kinds of questions at its next few meetings. Perhaps, we will ask our legal counsel to provide us with an opinion or two. Meanwhile, I would suggest that you carefully review RL 127.04, Wis. Admin. Code, concerning the written contract that you must have with the owner of real estate to be sold at auction or with the owner's agent. Some of the above issues can be addressed with sufficient provisions in your contract. If you call or manage an auction, you certainly are entitled to a commission for providing these services, regardless of whether the property was sold. I would suggest that you include provisions in your contract that address the conditions under which you will earn your commission for calling or managing an auction. However, unless you are a real estate licensee, you may not contract to negotiate the sale of real estate before or after your auction. You also may not complete a purchase agreement.

Secretary Marlene Cummings Retires

Governor Tommy G. Thompson announced that Marlene Cummings has retired after serving 14 years as Secretary of the Department of Regulation and Licensing to pursue private interests.

Governor Thompson thanked Secretary Cummings for her years of outstanding work and guidance on licensing issues.

Secretary Cummings, who retired from state service on February 25, 2001, had served with Governor Thompson since the beginning of his administration and was one of his first cabinet appointments.

"Marlene truly is a great friend, a great leader and a source of stability within the administration," Governor Thompson said. "We will miss her sound judgment and her innovative ideas. She has worked well with the licensing boards and her resignation will be a great loss for hundreds of board members and the entire state of Wisconsin."

Governor Thompson said Secretary Cummings has had an extremely successful tenure that emphasized changes in the handling of disciplinary complaints and adopted innovative disciplinary procedures. Her innovations have included an agency time-line for handling complaints, the use of mandated education and a procedure for managing professionals with drug and alcohol addictions.

"My 14 years of service in Governor Thompson's administration have been both inspiring and challenging," Secretary Cummings said. "We were often at the forefront of significant business and health care developments." Secretary Cummings also thanked Governor Thompson for his encouragement and the opportunity to serve, and wished him great success as a member of President Bush's cabinet.

Secretary Cummings says she is retiring to devote more time to her family. She said that she also needs more time for research and writing.

Reports of Decisions

The Department of Regulation and Licensing publishes the Reports of Decisions on a monthly basis. They contain disciplinary orders issued by the professional regulatory boards and by the Department. Orders from December 1998, to the current month are now available at the following Web address: <http://www.drl.state.wi.us>.

The Reports of Decisions include final orders issued by the Department of Regulation and Licensing and the boards attached to the Department. Decisions routinely included are decisions in cases initiated by the filing of a formal complaint or petition for summary suspension, disciplinary decisions reached through stipulation, cases dismissed without discipline, interim orders staying imposition of discipline, orders modifying limitations previously imposed and court decisions relating to orders issued by the Department or a Board. This report does not include decisions to deny or grant an initial credential application or renewal application unless the grant or denial followed a hearing and relates to a ground for discipline. Reports are prepared each month and take about four weeks to process from the close of the reporting period.

Important Message From the Department of Workforce Development

Failure to pay court-ordered child support may result in the suspension or non-renewal of professional licenses.

Recently enacted Wisconsin laws give local child support agencies the ability to request suspension or denial of licenses of people whose names appear on the Child Support Lien Docket and who owe more than \$1,000 or three months' worth of child support.

Past-due child support creates a lien against all of a payer's titled property. The lien is entered into Wisconsin's Child Support Lien Docket when past-due support reaches a specified threshold. In January 2001, the threshold amount was \$20,000 in past-due support.

Child support agencies will notify payers at the time their names are added to the Child Support Lien Docket and prior to initiating license suspension action.

Satisfaction (payment in full) of the child support lien, or entering into and complying with a plan to pay off the past-due support, will halt license suspension action.

For more information about Child Support Liens and license suspension, please contact your local child support agency.

Administrative Rule Revisions

The rules that we summarized in the last issue of the Digest will become effective on February 1, 2001. These rules address two very significant issues. First, the previous 1-year temporary permit has been replaced by a 60-day permit. Anyone receiving a temporary permit on or after February 1, 2001, will receive the new 60-day permit. The 60-day period begins on the date the applicant files the registration application with the department. During the 60 days, the permit holder will be required to take and pass the examination and then file an application for and receive a non-temporary permit, or cease practicing at the end of the 60 days.

The new rules also implement the new provisions we printed in the last issue of the Digest, relating to the types of activities a person may perform while under a suspension or revocation order issued by the Board.

Statistics

As of February 7, 2001, the number of active registered temporary auctioneers, auctioneers and auction companies was:

Temporary Auctioneer Registrations:	47
Auctioneers:	883
Auction Companies:	152

Slot Machines

If you are asked to auction a slot machine, keep in mind that s. 945.05 of the Wisconsin Statutes says that a person may not transfer commercially any device which the person knows is designed exclusively for gambling purposes. However, a permanently disabled gambling machine is not considered a device primarily for a gambling purpose.

Retailer's Discount Relating to Sales Taxes

Auditors of the department recently asked the board whether an auctioneer or auction company is permitted to keep the retailer's discount given by the Department of Revenue to an auctioneer or auction company that timely reports and pays sales taxes. The board's answer was yes.

Disciplinary Actions

**BADGER AUCTIONEERS INC
THERESA WI**

SUSPENDED

Trust funds were not deposited into a trust account in a timely manner. Trust funds were not properly correlated. Trust fund deposits were not equal to cash received from buyers. Did not prepare and complete records of an auction. Suspend 60 days effective 11/1/2000. Establish financial procedures. Effective 9/25/2000. Secs. 480.14(3)(a),(b), 480.16, 480.18(1)(3), 480.26(2), Stats. RL 126.02, 124.02(4), (5) Case #LS0002291AUC

**THEODORE W FLEISNER
THERESA WI** **SUSPENDED/COSTS/
FORFEITURES**

Did not disclose that he had been arrested and convicted of disorderly conduct, operating a motor vehicle while intoxicated, operating after revocation, and obstructing an officer. Failed to deposit trust funds in a timely manner. Failed to maintain accounting records. Suspended 36 months effective 11/1/2000, stayed effective 2/1/2001 conditioned upon continued compliance with limitations of order. Pass exam. Costs of \$4,000.00. Forfeiture of \$8,443.00. Secs. 480.14(3)(a),(b), 480.16, 480.18(1),(3), 480.24(2), 480.26(2), Stats. RL 124.02(4),(5), 126.02 Case #LS0002291AUC

**GENE J FINZ
ALBUQUERQUE NM** **SUSPENDED/COSTS**

Made a material misstatement in an application for a certificate or renewal of a certificate. Failed to maintain a trust account in a bank, savings and loan association or credit union authorized to do business in Wisconsin. Suspended 6 months effective 9/25/2000. Secs. 480.24(2)(a), 480.16, Stats. RL 126.02(2) Case #LS0006161AUC

**STEVEN L GOOD
HIGHLAND PARK IL** **REPRIMAND/FORFEITURES/
COSTS**

Made deposits into a separate client escrow account instead of the required common trust account. Failed to provide to each owner or consignor of goods or real estate that was sold or attempted to be sold an accounting of all moneys due. Failed to include registrant's state registration number in the auction agreement and advertising. Costs of \$550.00. Forfeiture of \$1,000.00. Effective 12/11/2000. Secs. 480.16, 480.14(3)(a), Stats. RL 124.02(1), 123.03(1) Case #LS0012112AUC

**SHELDON GOOD & CO AUCTIONS
CHICAGO IL** **REPRIMAND**

Made deposits into a separate client escrow account instead of the required common trust account. Failed to provide to each owner or consignor of goods or real estate that was sold or attempted to be sold an accounting of all moneys due. Failed to include registrant's state registration number in the auction agreement and advertising. Effective 12/11/2000. Secs. 480.16, 480.14(3)(a), Stats. RL 124.02(1), 123.03(1) Case #LS0012112AUC

**JACQUELINE FIFE
FOND DU LAC WI** **SUSPENDED**

Indicated on renewal application that she had completed the required continuing education courses in satisfaction of the continuing education requirement when, in fact, she had not. Has not taken the education examination in lieu of the continuing education requirements. Effective 7/24/2000. Sec. 480.24(2)(a),(j), Stats. RL 128.02 Case #LS0007245AUC

**STANLEY A EVAVOLD
SUPERIOR WI** **SURRENDERED**

Investigations involve alleged misuse of auction proceeds and his continuing to practice as an auctioneer during the time his license was not renewed. Effective 12/11/2000. Case #LS0012111AUC

REGULATORY DIGEST

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Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press various extensions. For the following requests, please press extension numbers as noted:

Application Forms	Ext. 11
Complaints Against Licensees	Ext. 12
Application Processing & Requirements	Ext. 43
Whether A Person Is Registered	Ext. 442
Fax Number	(608) 267-3816

Board Meetings

Usually the 4th Monday of every other month.

Verifications

Requests for verifications of license, sent to other states must be in writing. **The cost is \$10.** Please make out check or money order to the Department of Regulation and Licensing.

Visit the Department's Web Site

www.drl.state.wi.us

For our new "Online Verification of Credential Holders" click on the "Business and Professional License Lookup" button on the Department's home page.

Copies of the Regulatory Digest are on the Web.

Send comments to dorl@drl.state.wi.us

Wisconsin Statutes and Code

Copies of the "Statutes and Administrative Code Relating

to the Practice of Auctioneers and Auction Companies" can be ordered from the Department.

Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated August 1999.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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